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SUBJECT: MINORITY HILL TRIBES STILL PLAGUED BY STATELESSNESS, THOUGH
TRENDS ARE ENCOURAGING

REF: CHIANG MAI 127 (Citizenship Hardships)

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Summary and Comment

¶1. Roughly half of Thailand's estimated 900,000 hill tribe minorities lack citizenship. This statelessness contributes significantly to their disadvantaged status. In recent years the Royal Thai Government (RTG) has made strides to improve citizenship eligibility for highlanders, including passing two significant new laws in 2008. Nonetheless, the onus is still on hill tribe people to produce proof of birth, residency, and/or nationality, via a process that is legally and bureaucratically complex, and fraught with corruption and discrimination. The RTG, UN agencies and NGOs are working together to overcome these obstacles and build on recent momentum. However, funding resources are limited for all of these actors. Post will continue its outreach on hill tribe citizenship issues, with the aim of identifying effective ways the USG could contribute via means such as Democracy Small Grants and public diplomacy initiatives.

¶2. Comment: On hill tribe statelessness, Thailand's glass is roughly half full and half empty. Yet it is fuller than a decade ago and slowly continues to fill. A major dilemma for the RTG, however, is the growing number of highland minorities migrating from Burma in recent years - and the accompanying concern that liberalization of citizenship laws to benefit resident hill tribes could become a beacon attracting new migrants from Burma. End Summary and Comment.

The Hills Have Tribes

¶3. Thailand's "hill tribes" are ethno-linguistic minority groups living primarily in remote small villages dotted throughout the country's northern and western highlands. Most originated in Tibet and southern China, and have migrated to Thailand via Burma and Laos within the past 150 years. However, some hill tribe migration continues to this day due to political strife in eastern Burma (see para 24). As a result of the mobility and remoteness of the lifestyle, it is difficult to determine a precise figure for Thailand's hill tribe population.

In fact, the population figure varies between different Thai agencies. The best consensus figure post has been able to determine is just under 900,000, about 1.4% of the country's total population. Of this hill tribe populace, nearly 70% is concentrated in the northern provinces of Chiang Mai, Chiang Rai, and Nan.

¶4. The extent to which Thailand's hill tribes, or

"highlanders," live a disadvantaged and marginalized life has been widely documented by the State Department, UN agencies, NGOs and scholars. There is broad consensus that lack of citizenship among a large portion of highlanders - roughly half, by most estimates - is the single greatest factor contributing to their disadvantaged status. This cable will focus on statelessness among Thailand's hill tribes by:

-- tracing the legal and political background and current state of play;

-- identifying obstacles highlanders face in obtaining citizenship;

-- summarizing the societal disadvantages faced by stateless persons; and

-- looking ahead to efforts by the RTG, NGOs, and international community aimed at addressing the problem of hill tribe statelessness.

A Growing Identity

¶5. Before the 1950s, the Thai government largely overlooked the presence of highland people in the country's remote mountainous regions. The hill tribes were not included in the first national census in 1956. But political upheavals that decade in China, Laos and Burma resulted in an influx of migrants to the hills of northern Thailand. By 1959, the RTG set up a national committee to deal with development for hill tribe people, then seen largely as a national security threat involving guerilla movements, opium production, and deforestation.

¶6. According to UNESCO, the RTG conducted its first census of the highland population in 1969-70; it identified 120,000 hill

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tribe people. A second, more comprehensive census followed in 1985; it recorded 580,000 highlanders. Following this survey, the government began issuing household registration certificates along with a highland (non-citizen) identity card. By the early 1990s, the Interior Ministry had issued highland identity cards to nearly 250,000 hill tribe people, and conferred Thai citizenship on another 182,000.

¶7. In 1999, the RTG conducted its most comprehensive highland population survey to date. This survey recorded a total hill tribe population of nearly 874,000 people, of whom over 496,000 were already registered as Thai citizens. The remaining 378,000 highlanders were placed in various categories such as "eligible for Thai citizenship," "eligible for permanent residency," or undetermined. Of these 378,000 non-citizens, post understands that a number of them have since received citizenship, but neither government nor NGO sources have been able to provide a precise figure. To date, no complete census data tracks the number of hill tribe residents or their citizenship status.

RTG Takes Positive Steps . . .

¶8. In the years since the 1999 survey, the RTG has taken steps to improve citizenship eligibility for highlanders, including passing two significant new laws in 2008. Generally, each step has addressed a different sub-set of the total non-citizen population, or a specific portion of the overall process, rather than offering a comprehensive solution. Yet taken together, the trend is encouraging, though the onus still lies with the applicant to produce proof of residency, nationality, and/or birth, which can be highly problematic as described in paras 14-17.

¶9. The first positive step was the RTG's August 2000 declaration that all children born in Thailand of hill tribe

parents who entered Thailand before October 4, 1985 were eligible for citizenship regardless of their parents' legal status at the time they were born. The parents themselves (about 60,000 persons per RTG figures) were declared eligible for legal migrant status. The main beneficiaries of this decision were ethnic minorities from Burma, including hill tribe groups as well as the non-hill tribe Shan, who had fled into Thailand in the 1970s and 1980s.

¶10. In 2001 the RTG established an independent National Human Rights Commission; its subcommittee on ethnic minorities has been active in calling for full citizenship rights for all those born in Thailand. In 2005 the government designated the Interior Ministry and National Security Council as the lead agencies on citizenship matters, and tasked them with: surveying the highland population; developing an approach that would that would give stateless persons some form of legal status immediately pending a final determination; decentralizing citizenship authorization; and including NGOs and academics in the decision-making process.

¶11. The latest positive step was Thailand's adoption of the Nationality Act of 2008 and the Civil Registration Act of 2008, both of which superseded earlier laws. Their full impact has yet to be assessed since the Interior Ministry has yet to issue complete implementing regulations.

¶12. The Nationality Act of 2008 has four significant aspects; it:

-- stipulates that children born in Thailand before February 26, 1992 to parents who entered Thailand illegally AFTER October 4, 1985 are eligible to apply for Thai citizenship. This broadens the RTG's August 2000 declaration noted in para nine. The fate of children born in Thailand after February 1992 to illegal alien parents is less clear, however. The new law permits them to remain in Thailand (i.e., not treated as illegals), with an opportunity to "develop their legal personal status as circumstances permit."

-- repeals a 1972 decree that revoked the citizenship of a large number of highlanders on national security grounds involving drug-trafficking, deforestation, and communist insurgency. For those whose citizenship was revoked, as well as their children who were consequently rendered ineligible for citizenship, the new law reinstates their citizenship. RTG and NGO sources report that over 6,000 highlanders have already obtained citizenship in this manner, with NGOs saying the number could approach 100,000 once implementation is in full swing.

-- allows stateless persons who unwittingly waived their right to claim Thai citizenship to reclaim their eligibility. In the

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previous decade, many stateless highlanders who were born in Thailand and may have been able to prove citizenship eligibility substantially weakened their claim to citizenship by registering as "migrant workers." They did so in order to order to gain coverage under the government's 30-baht universal health care program, which is otherwise unavailable to stateless persons.

-- grants citizenship eligibility to previously ineligible individuals : children born in Thailand to a Thai father and alien mother; children born out of wedlock to a Thai mother; and alien husbands of Thai wives who wish to naturalize.

¶13. The 2008 Civil Registration Act is significant for stipulating that every child born in Thailand will receive an official birth certificate, regardless of the parents' status, beginning from the law's entry into force on August 23, 2008. Similarly, local registrars shall issue a household registration for all persons domiciled in Thailand regardless of nationality. These documents are important for citizenship applicants to navigate the complicated legal regime described in para 15.

¶14. Despite these positive steps, obstacles to obtaining citizenship remain for several hundred thousand hill tribe people. UNESCO notes that, whereas in China, Laos and Vietnam ethnic minorities are born citizens of those countries, in Thailand citizenship for highlanders is an acquired status. Moreover, such status may be obtained only through a process that is still legally and bureaucratically complex, and fraught with corruption and discrimination.

¶15. In June 2007, the Vital Voices Global Partnership issued a report on the relationship between the lack of citizenship and human trafficking in Thailand, and the challenges of obtaining proof of citizenship (see <http://www.vitalvoices.org/files/docs/Vital%20Voices%20-%20Stateless%20and%20Vulnerable%20to%20Human%20Trafficking%20in%20Thailand.pdf>). The report provides useful detail on the various obstacles faced by the hill tribes in obtaining Thai citizenship, including:

-- A complicated legal regime. On the one hand, a child born to a Thai citizen or alien permanent resident can become a citizen. On the other hand, eligibility for citizenship by birth does not automatically translate into proof of citizenship. Proof must be presented to the appropriate local officials for verification, which is no easy task given legal complexities. Parents of a newborn must first obtain a delivery certificate, and then notify the birth to the district registrar within 15 days. Only after these two steps are completed may the registrar then issue a birth registration certificate - and then only to children of citizens or legal permanent residents. In the absence of a required document, a witness's testimony is needed. In the case of children without proof of birth certificate or witness, a DNA test is required. Obtaining citizenship by naturalization is also complex and rigorous; it includes a five-year domicile requirement, approval by the Interior Minister, and royal sanction by the King.

-- Practical problems of data, communication, and transportation. The 2007 Vital Voices report (VV report) describes how incomplete, contradictory census data, as well as inconsistent decisions by officials regarding status and identification of individuals, has hindered obtaining citizenship for many highlanders. Another obstacle is the language barrier between Thai officials and non-Thai speaking hill tribe people, which contributes to census and registration errors. Also, lack of transportation to and from remote highland areas prevents many newborns from obtaining either the delivery certificate or the birth notification required for the birth registration certificate - without which citizenship cannot be obtained.

-- Corruption by local officials is another obstacle hill tribes face in obtaining Thai citizenship. As the VV report notes, the fact that citizenship applications must go through local officials gives them absolute authority and has made corruption rife at the village, sub-district, and district levels. This assertion was supported by recent conversations we had with two Amcits who are long-time residents of northern Thailand (Chiang Rai) and active in hill tribe development efforts. They said most highlanders lack birth certificates and must rely on their village and/or district head to certify their birth and eligibility for citizenship. Many of these officials are corrupt and demand bribes of 500 to 2,000 baht (USD 15 to 60) to certify birth and/or residency. Staff at a Chiang Mai

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shelter for young hill tribe women cited even higher bribe amounts (5,000 to 15,000 baht, or USD 150 to 450) charged by village and sub-district heads for services that are supposed to be free, such as official signatures, house registration, fingerprinting and id photos, and citizenship card issuance. A UN agency source cautions of district officials who feign ignorance of the process, withhold information, or omit dates on

received applications in attempts to extort bribe payments.

¶16. Our Chiang Rai sources claimed many village heads do not want highlanders in their area to get citizenship, because then they lose "control" of them. Village heads can make money off "their" stateless hill tribe people via trafficking their labor into illegal logging, drug-running, or the sex trade. As a result, many village heads equate citizenship with "losing their assets" (Note: our contacts were unable to quantify the extent of this practice). Moreover, some officials use the prospect of citizenship as a tool to manipulate stateless highlanders' behavior. For instance, local officials have in some cases withheld citizenship from an entire village as a means to force its residents to give up the drug trade. The unfortunate result is that an entire village can have its citizenship withheld even if just a few of its members engage in drug trafficking. The means for doing so can be subtle, e.g. bureaucratic foot-dragging or questioning the bona fides of birth witnesses.

¶17. Our Chiang Rai sources, and the VV report, described several other obstacles to obtaining citizenship:

-- AIDS. Many hill tribe children are AIDS orphans, whose parents died when AIDS peaked in Thailand a decade ago. This complicates the process of documenting birth records and citizenship eligibility.

-- Cautious officials. Local officials tend to be risk-averse, and hesitate to accept citizenship applications for fear of harsh career penalties for any mistake in granting an incorrect status. Moreover, a UN agency source claims there is a history of reprisals by officials against individuals who come forward publicly to report shortcomings in the registration process.

-- Lack of knowledge. The complexities of both the legal regime and the application process means that responsible officials often lack understanding of their obligations, and highlanders (many of whom do not speak or read Thai) often lack knowledge of their citizenship rights.

-- Complex appeals process. If the district official rejects a citizenship application, few appellate options exist. The complicated process is outlined in the VV report, which concludes that the appeals process is fraught with obstacles, including: lack of knowledge of the right to appeal, complexity of the process, a one-month statute of limitations, broad discretion for government officials, and the money and time required to undertake an appeal.

-- Too many cooks? Another complexity, though not directly related to the citizenship issue, is the sheer number of government entities with a role in hill tribe issues. According to a 2002 study by the UN Food and Agriculture Organization, Thailand has 11 government ministries involved in hill area development, which in turn have 31 departments and 168 agencies with either a mandate or a commitment to support hill tribe communities.

How Statelessness Marginalizes Highlanders

¶18. Thailand's hill tribes live a marginalized life to begin with given their agrarian lifestyle, remote location, and low education level. That several hundred thousand highlanders lack Thai citizenship significantly exacerbates their disadvantaged status. According to UNESCO, lack of citizenship or legal status is the single greatest risk factor for hill tribe people to be trafficked or otherwise exploited. Without legal status, they are considered "illegal aliens" in their own country, subject to arrest, deportation, and extortion. Highlanders who lack citizenship cannot vote, hold office, organize into unions, or own/obtain title to land, and have difficulty accessing credit from banks. Stateless highlanders are also barred from state welfare services such as universal health care (the 30-baht plan). They are geographically restricted to living and working in certain areas, usually their immediate home district.

This confines them to the meager opportunities for work in the locality, unless special permission is granted by the district head. As a result, they are often employed in informal labor arrangements that are highly exploitative. And because of the

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travel restrictions, the further they travel away from their communities, the more vulnerable they become to shakedowns by corrupt police who use their lack of travel passes as a pretext for extortion.

¶19. Our Amciti Chiang Rai contacts elaborated on these disadvantages. Stateless highlanders not only cannot leave their province of residence, but also cannot get drivers licenses, even for motorcycles. This is problematic for getting to school or a job site. Non-citizen highlanders try to get around this by having the vehicle purchase issued under the name of a Thai acquaintance, which often requires an under-the-table payment.

¶20. Lack of citizenship blocks access to most private sector jobs, our contacts noted, since private businesses that employ non-citizens or unregistered migrants are subject to penalties for harboring illegals. Nor are stateless highlanders eligible for Civil Service jobs, and thus cannot enter the local bureaucracy to serve their own people. They also cannot serve in the Thai military. Ironically, this makes them ineligible for many other types of jobs because they can produce neither a document showing they have completed their mandatory year of military service, nor a document showing they are legally exempted from such service.

¶21. Statelessness also hinders educational advancement. On the positive side, undocumented hill tribe children are no longer barred from public schools; a compulsory education law mandates attendance through age 15 for all. Without citizenship, however, they do not receive an official diploma upon graduation, and are thus mostly blocked from higher education and restricted in employment options. Staff at a Chiang Mai shelter for young hill tribe women spoke of one star student who completed secondary school but then hit a dead-end in her job search; she gave up and returned to her village. Our Chiang Rai contacts told us of a stateless hill triber who completed all required coursework for a PhD at Chiang Mai University, but was not awarded a degree due to lack of citizenship.

¶22. Despite improved access to public schools, enrollment among hill tribe students remains low, and declines with age. In 2006, UNESCO conducted a Highland Peoples Survey of the impact of statelessness by polling 12,000 households in nearly 200 border villages in three northern provinces (Chiang Mai, Chiang Rai, Mae Hong Son). Of the almost 64,000 individuals surveyed, 38% had no Thai citizenship and 54% had no official birth registration. The survey found that for every 100 non-citizens, only 22 would enter lower primary school, and only eight would advance to upper primary. The drop-off continued at higher levels: only five would enter lower secondary, three would enter upper secondary, and fewer than two would pursue higher education.

¶23. With these disadvantages stacked against them, our Chiang Rai sources conclude, many stateless highlanders are relegated to a permanent life in the underclass - mostly on the fringes of rural society, and some who migrate to cities and get involved in the drug trade, sex trade, illegal labor, and petty crime. Yet many manage to struggle through to the fringes of "normal" life. They find or form networks of supporters, and devise ways to commute into cities for work or school while avoiding fines for violating movement or licensing restrictions.

Continuous Influx Presents Dilemmas

¶24. A major dilemma for Thailand is the continuing inflow of hill tribe migrants. Former Senator Tuenjai Deetes, who heads

the Hill Area Development Foundation (HADF) in Chiang Rai, expressed concern to us about the increasing number of highlanders migrating from Burma in the last five years (as well as the non-hill tribe Shan). This recent influx has created overcrowding in hill tribe areas, forcing many longer-established highlanders to sell their land and migrate into cities. Overpopulation of highland villages outstrips the village headman's ability to administer effectively, and also fosters corruption - the headman can demand bribes in order to permit new migrants to stay and receive services.

¶25. Deetes pointed out another RTG dilemma: liberalization of citizenship laws to benefit resident highlanders could become a beacon to attract new migrants from Burma. Also, the RTG is wary of automatically granting citizenship to all who are born in Thailand, because new migrants keep flocking in and having children.

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To Do List for RTG, NGOs, International Community

¶26. On balance, the RTG has made reasonably good progress in the last 25 years in increasing the number of hill tribe people holding citizenship, despite the significant obstacles still standing in the way. The 2008 Nationality Act and Civil Registration Act, if implemented effectively, will generate further progress. UN agencies and the numerous NGOs actively promoting hill tribe citizenship aim to build on this momentum and have identified several follow-up steps for doing so:

-- Both highlanders and responsible officials need to be better informed about their rights and obligations under a citizenship regime that is legally and administratively complex. UNICEF and the Interior Ministry are planning a national workshop with NGOs to explain the new laws and their implementation to local officials and highlander community groups. The VV report makes similar recommendations, urging the international community to provide funding to the RTG and NGOs to support public awareness campaigns and training of local officials (as well as hospital staff and midwives) regarding the birth registration and citizenship process. Better awareness and training would empower community leaders, NGOs, and state agencies to assist applicants in applying for citizenship. As former Senator Deetes told us, all parties need to understand that registration and/or citizenship is a right, and should not be subject to bribe payments. Her organization, as well as UNESCO, is each doing radio outreach in minority languages on the new 2008 laws.

-- A data base of persons and linkage of data for verification purposes would significantly help in identifying eligible applicants for citizenship. An updated survey of undocumented highlanders is also needed. Chiang Mai's Payap University has had success with a pilot "People's Data Base" in select (albeit small) areas to record information on stateless persons. UNESCO will soon embark on an update of its 2006 Highland Peoples Survey, this time expanding it to five provinces from three.

-- Greater manpower and expertise is needed in hill tribe areas to process citizenship claims. UNICEF reports that the Interior Ministry's Department of Provincial Administration seeks to develop a cadre of civil registration volunteers. Under the supervision of the district registrar, one volunteer in each village would be trained as a community liaison to ensure birth registration requirements are followed correctly. Also, Payap University's Law Faculty recently launched a new course on citizenship issues for 50 students, who will deploy to hill tribe villages to "train the trainers" on legal and procedural matters. The VV report recommends the RTG create mobile units to register births in remote areas.

-- UN agencies and NGOs are urging the RTG to transfer birth

registration responsibilities from the Interior Ministry to the Public Health Ministry, given the latter's success in outreach to highlanders to persuade them to give birth in public facilities. The two ministries reportedly agree with this in principle and have discussed pilot testing in select provinces, but are concerned about human resource constraints at the Health Ministry.

-- UNESCO and UNICEF have recently developed a Citizenship Manual that will soon be available on line. The manual is intended to be a standardized "how to" guide for citizenship applications among hill tribe communities. (Note: Post expects to receive a CD version of the English translation by year's end). Similarly, the Interior Ministry is reportedly developing campaign leaflets explaining the 2008 laws and compiling citizenship laws for district registrars. In both cases, the aim is to standardize information across government and civil society on registration and citizenship procedures.

-- NGOs are calling for legislation to ease the naturalization process for legal resident aliens and give them the same rights as natural-born citizens.

¶27. The multiple, mostly coordinated efforts by the RTG, UN agencies, NGOs, and international community to improve citizenship prospects for eligible highlanders are encouraging. Significant obstacles remain, however, and funding resources are limited for all of the actors. Post will continue its outreach to these actors, with the aim of identifying effective ways for the USG to contribute via a variety of means at our disposal, including Democracy Small Grants as well as public diplomacy initiatives.

¶28. This cable was coordinated with Embassy Bangkok.
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